

AGENDA MEMO

CITY COUNCIL MEETING OF: AUGUST 5, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-34539 - APPLICANT/OWNER: BASHIR AFZALI

**** CONDITIONS ****

The Planning Commission (6-0 vote) and staff recommend DENIAL.

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Site Development Plan Review (SDR-34540) shall be required, if approved.
2. This approval shall be void two years from the date of final approval, unless a certificate of occupancy has been issued or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

Note: This request was originally noticed as Variance (VAR-33771), but, due to material changes in the project, was renoticed for the 06/11/09 and subsequent Planning Commission meetings as Variance (VAR-34539).

The subject site is currently an undeveloped lot located approximately 500 feet north of Washington Avenue. The proposed commercial development would have approximately 6,650 square feet of retail space available, requiring 38 parking spaces to meet the Title 19.04 standards, but only 35 parking spaces, including two handicap accessible spaces, will be provided. Staff is recommending denial of this request as the applicant has not provided compelling evidence of a unique or extraordinary circumstance, and has created a self-imposed hardship by proposing to overbuild the site. Alternative design or a reduction in the scope of the project would bring the development into compliance with Title 19 standards.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/01/04	The City Council approved a request for Rezoning (ZON-5222) from R-E (Residence Estates) to C-1 (Limited Commercial) on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval. The Resolution of Intent expired on 12/01/06.
12/01/04	The City Council denied requests for a Site Development Plan Review (SDR-5223) with a Waiver of perimeter buffering and landscaping standards and a Special Use Permit (SUP-5225) for a proposed Smog Check and Car Wash, Self Service on 0.58 acres located between 1000-1100 Martin L. King Boulevard. The Planning Commission recommended approval.
07/09/09	The Planning Commission recommended approval of companion item ZON-33765 and denial of SDR-34540 concurrently with this application. The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #17/sg).

<i>Related Building Permits/Business Licenses</i>
There are no related building permits or business licenses associated with the subject site.

<i>Pre-Application Meeting</i>	
12/16/08	<p>A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Site Development Plan Review and Variances:</p> <ul style="list-style-type: none"> • Required setbacks, Residential Adjacency issues and parking requirements. • Perimeter landscape buffer Waivers required. • Parking lot landscaping Exceptions required. • Preference for a single driveway, with required throat depth.
12/16/08	<p>A pre-application meeting was held to discuss the submittal requirements for a Rezoning and Site Development Plan Review, as well as required Variances for setbacks and parking requirements.</p>

<i>Neighborhood Meeting</i>
A neighborhood meeting was neither required nor held for this request.

<i>Field Check</i>
<p>03/19/09 A field check was conducted by staff. The subject site is an undeveloped parcel. There is an unpermitted chain link fence along the front of the lot, as well as some debris.</p>

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.58 Acres

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Undeveloped	C (Commercial)	R-E (Residence Estates) [Proposed: C-1 Limited Commercial)]
North	Shopping Center	C (Commercial)	C-1 (Limited Commercial)
South	Retail Shops	C (Commercial)	C-1 (Limited Commercial)
East	Single-Family Residence	C (Commercial)	R-E (Residence Estates)
West	Single-Family Residences	R (Rural Density Residential)	R-E (Residence Estates)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
West Las Vegas Plan	X		Y
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O Airport Overlay District (140 Feet)	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
General Retail Store, Other Than Listed	6,650 SF	1:175	36	2	33	2	
TOTAL			38		35		N
Loading Spaces	One loading space is required, up to 10,000 SF		1		1		Y
Percent Deviation					8%		

ANALYSIS

The applicant is proposing a 6,650 square-foot commercial building, which requires a total of 38 parking spaces, including two handicap accessible spaces, as well as one on-site loading zone. The submitted site plan depicts a total of 35 parking spaces, including two handicap accessible spaces, and one loading zone. The 8% reduction in required parking indicates that the site, as proposed, would be overbuilt. Furthermore, the proposed deficiency is preferential in nature and as such, the applicant has created a self-imposed hardship that staff cannot support; therefore, staff is recommending denial of this request.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by proposing to overbuild the subject site. Alternative site design or a reduction in the floor area of the development would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

Note: This application is amended to allow 35 parking spaces where 38 are required.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED

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ASSEMBLY DISTRICT 6

SENATE DISTRICT 4

NOTICES MAILED 157 by City Clerk

APPROVALS 2

PROTESTS 1